IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16985 of 2004

Between:

M/s. Siri Engineering Contractors, Vijayawada, Krishna District, rep. by its Proprietor Mr.B.Nageswara Rao.

..... PETITIONER

AND

1 The Additional Commissioner of Commercial Taxes (FAC) O/o. The Commissioner of Commercial Taxes, Excise - Commercial Taxes Building,
M.J.Road, Nampally, Hyderabad.
2 The Appellate Deputy Commissioner of Commercial Taxes, Vijayawada,
Krishna Dist.
3 The Commercial Tax officer, Benz Circle, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly in the nature of writ of Mandamus declaring the proceedings of the first respondent herein namely the Additional commissioner of Commercial Taxes (FAC), Hyderabad dated 20-08-2004 in CCT's Ref. No.LV (2)/913/2004 rejecting the stay application filed by the petitioner on 22-03-2004 pending disposal of the appeal of the petitioner before the Honourable sales Tax Appellate Tribunal seeking stay for collection of the disputed tax of Rs.94,079/- as illegal, arbitrary, improper, unjust and opposed to the principles of natural justice.

Counsel for the Petitioner : MR.M.V.J.K.KUMAR

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

The Court at the admission stage, made the following :

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ORDER : (per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

22nd September, 2004.

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(S.ANANDA REDDY, J)

ajr

To

1 The Additional Commissioner of Commercial Taxes (FAC) O/o. The Commissioner of Commercial Taxes, Excise - Commercial Taxes Building,
M.J.Road, Nampally, Hyderabad.
2 The Appellate Deputy Commissioner of Commercial Taxes, Vijayawada,
Krishna Dist.
3 The Commercial Tax officer, Benz Circle, Vijayawada, Krishna District.
4 Two C.Cs. to the G.P. for Commercial Taxes, High Court Buildings,
Hyderabad (O.U.T).
5 Two C.D. copies.